

H. Judiciary



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D. C. 20505

OFFICE OF THE DIRECTOR

Executive Registry
72-45261

6 SEP 1972

The Honorable Emanuel Celler, Chairman
Committee on the Judiciary
House of Representatives
Washington, D. C. 20515

My dear Mr. Chairman:

I am writing to tell you of my very serious concern over the effects upon this Agency of certain provisions of Title II of H. R. 12652. I believe that Chairman Hampton, of the Civil Service Commission, has written to you expressing his concern over the effects of this legislation on agencies of the Executive Branch in general, and I fully subscribe to the points I am told he made in his letter. In addition, however, I am especially disturbed over the impact this legislation would have on existing statutory responsibilities and authorities relating to the protection of intelligence sources and methods.

This Agency's views on bills identical to this proposed legislation have been made known to the Chairman of the Senate Constitutional Rights Subcommittee and the Chairman and members of the House Employee Benefits Subcommittee, and I enclose for your information copies of the relevant correspondence. Chairman Hebert and Chairman Mahon, who, as you know, share congressional oversight responsibility for this Agency, have fully supported our position in this respect and have on an earlier occasion communicated their views to Chairman Dulski, of the House Post Office and Civil Service Committee.

Because I am convinced that the legislation in question could have a major adverse impact on the security discipline and operational effectiveness of this Agency, I would very much appreciate an opportunity to

MORI/CDF

meet with you at your convenience to explain in detail the reasons
for our concern.

Sincerely,

Richard Helms

Richard Helms
Director

Enclosures

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OLC/GLC:smg (1 Sept 72)

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112-4526/1

SUBJECT: (Optional)

FROM:

Acting Legislative Counsel

EXTENSION

6121

NO.

DATE

1 September 1972

TO: (Officer designation, room number, and building)

DATE

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OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

Director

6 SEP 1972

H/

An item of pending business before Congress when it returns from recess will be conference committee action on the "Ervin bill" rider to the Civil Rights Commission legislation. The Civil Service Commission is tackling the sticky procedural question of "germaneness" of the rider. If this issue is lost and the Ervin bill is not deleted, CSC will press for amendments which will include specific exemptions for CIA, NSA and FBI.

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Former Representative, now Judge, Poff has spoken with Chairman Celler about our particular problems with the bill and Poff, along with the staff of the Post Office & Civil Service and Judiciary Committees recommend that you address correspondence along the lines of the attached letter to Celler to make this a matter of record. Our letter has been coordinated with the CSC and with the DDS and OGC.

We also plan to ask Chairmen Hebert and Mahon to speak with Celler on our behalf.

Acting Legislative Counsel



UNITED STATES CIVIL SERVICE COMMISSION
WASHINGTON, D.C. 20415

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IN REPLY PLEASE REFER TO

YOUR REFERENCE

August 10, 1972

Honorable Emanuel Celler
Chairman, House Judiciary Committee
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

It is with grave concern that I write you concerning H. R. 12652, a bill to extend the life of the Commission on Civil Rights. This concern relates to the insertion entitled "Protection of Constitutional Rights of Government Employees," the language of which is identical to S. 1438, and previous bills which have received Senate approval.

The Civil Service Commission has reported to the Subcommittee on Employee Benefits of the House Post Office and Civil Service Committee on S. 1438 and similar bills, and has expressed strong objections to what we regard as major faults in the bills.

We do not, I can assure you, take any exception to the stated purpose of these bills, which is to protect civilian employees of the executive branch of the government in the enjoyment of their constitutional rights and to prevent unwarranted invasions of their privacy. We agree that under no circumstances should the price of Federal employment be relegation of the individual to "second class citizenship." But we feel very strongly that the proposed legislation goes beyond the protection of constitutional rights; that it would seriously infringe the proper right and responsibility of managers to see that the business of government is performed effectively and efficiently; that it is completely out of keeping with long-established principles of sound judicial administration in that it provides for summary judicial intervention into the management of the executive branch before the individual has exhausted his available administrative remedy, and that the establishment of a new agency, "The Board of Employee Rights" has a number of faults, the most notable of which is a conflict of statutory responsibilities with those of the Civil Service Commission.

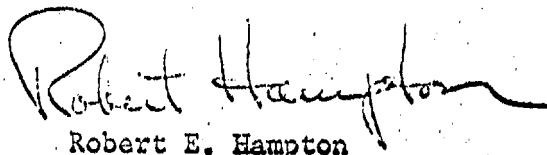
While our reasons for objection are stated in greater detail in my testimony on H. R. 7199, H. R. 7969, and S. 1438 (copy attached), I should like to highlight just a few of the problems created by the present language. It would prevent a supervisor in a munitions storage depot from questioning an employee about forbidden smoking on the job

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until the employee's attorney was present. It could bar inquiries about national security, or employee safety. It would, for all practical purposes, negate the ethical conduct program within the executive branch. It could preclude proper investigation of complaints of discrimination because of race, religion or national origin. By calling for a "prejudgment" by the Attorney General before he decided whether to defend an accused Federal supervisor in a lawsuit, it would tend to prejudice a fair hearing in court in the case of a supervisor who would not be defended by the Attorney General.

While we strongly feel that the defects are so serious that the "Protection of Constitutional Rights of Government Employees" insert to H. R. 12612 should not become law, I believe that the legitimate purposes of the insert could be achieved by a suitable, carefully drawn bill. The House Post Office and Civil Service Committee has already given much attention to, and held hearings on, this matter. I would strongly recommend therefore that the matter be divorced from the urgencies of H. R. 12652.

Sincerely yours,



Robert E. Hampton
Chairman

Enclosure